

Application No.: 10/564,464
Filing Date: January 12, 2006

REMARKS

Applicants gratefully acknowledge the Examiner's indication of allowable subject matter for claims 14-16. Claims 1-8 are subject to provisional double patenting rejections. The double patenting rejections have been addressed by cancellation of conflicting claims. Accordingly, the application is believed to be in condition for allowance.

Double patenting-101

Claims 1-8 are provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1-5 and 10-13 of copending Application No. 11/913,022 and claims 1-5 and 10-13 of copending Application No. 11/916,008.

This ground of rejection is addressed by cancellation of claims 1-5 and 10-13 in copending Application No. 11/913,022 and claims 1-5 and 10-13 in copending Application No. 11/916,008.

In view of Applicants' cancellation of claims in the above-referenced applications, withdrawal of the rejection is respectfully requested.

Double patenting-obviousness

Claims 1-8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of copending Application No. 11/576,676.

In response, claims 1-11 have been canceled in Application No. 11/576,676. Accordingly, withdrawal of the rejection is respectfully requested.

Rejoinder

Claim 9 depends from claim 1 and claim 11 has been amended to depend from claim 1. Claims 9 and 11 and claims 10 and 12-13 depend from claim 1 and have all of the limitations of claim 1. Claim 1 is believed to be in condition for allowance. Accordingly rejoinder, and allowance of withdrawn claims 9-13 is respectfully requested.

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No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Further to the listing provided with the Response to the Restriction requirement filed on July 23, 2008 Applicant wishes to draw the Examiner's attention to the following additional co-pending application of the present application's assignee.

Serial No.	Title	Filed
12/180241	GLYCOSIDE HAVING 4-METHYLERGOST-7-EN-OL SKELETON AND HYPERGLYCEMIA IMPROVING AGENT	25-Jul-2008

CONCLUSION

In view of Applicants' amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: Nov. 17, 2008

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